



Paper No. 5

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OFFICE OF PETITIONS

In re Application of	:	
Anjanaiah et al.	:	
Application No. 09/964,159	:	ON PETITION
Filed: 26 September, 2001	:	
Attorney Docket No. TI-33534	:	

This is a decision on the petition, filed on 18 March, 2002 (certificate of mailing date 8 March, 2002), under 37 CFR 1.137(a) which is first treated as a petition to withdraw the holding of abandonment for the above-identified application.

The petition to withdraw the holding of abandonment is GRANTED.

The petition under 37 CFR 1.137(a) is DISMISSED AS MOOT.

The application was held abandoned on 25 December, 2001, for failure to file a timely response to the Notice to File Corrected Application Papers mailed on 24 October, 2001, requiring substitute drawings in compliance with 37 CFR 1.84. A two (2)-month period for reply was set. No extensions of time under 37 CFR 1.136(a) were obtained. The present petition precedes the mailing of Notice of Abandonment.

Petitioner asserts that a proper response, including the drawings, was mailed to the USPTO on 27 November, 2001, but was returned to counsel's office as undeliverable. In support of the petition, petitioner submits a copy of the reply said to have been mailed to but not received in the U.S. Patent and Trademark Office. The document contains a certificate of mailing dated 27 November, 2001, and signed by petitioner's counsel, William W.

Holloway. The petition also contains a statement from attorney Holloway stating that the reply was mailed to the USPTO on 27 November, 2001, but was subsequently returned to petitioners on 19 February, 2002. Petitioners have also submitted a copy of the envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231, showing a stamp evidencing processing by the USPS on 27 November, 2001. Petitioners further state that the papers comprising the reply had been "yellowed".

It is noted that the USPS Internet site indicates that some replies mailed to the USPTO had been returned as undeliverable due to damage incurred during the USPS decontamination process. Such a reply will be considered timely if the reply was mailed with a certificate of mailing under 37 CFR 1.8 showing a date that is within the period of reply set forth in the last Office action or note. A copy of the previously mailed reply showing the original certificate of mailing with a date within the period of reply and a statement that the reply was previously mailed to the USPTO on the date indicated on the certificate of mailing, and that it was returned as undeliverable because it was damaged in the mail.


The petition complies with the requires set forth in 37 CFR 1.8(b).

Receipt of nine (9) sheets of drawings is acknowledged.

Accordingly, the holding of abandonment withdrawn. In view thereof, the petition under 37 CFR 1.137(a) is moot. The petition fee \$110.00 is unnecessary and will be refunded to counsel's deposit account, No. 20-0668.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.


Douglas I. Wood
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Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy